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APR - 2 2004

Paper No. 8

In re Application of  
Patricia Lewis *et al*  
Application No. 10/078,068  
Filed: March 30, 2001  
Attorney Docket No. MOR3334P0870US

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: DECISION ON PETITION  
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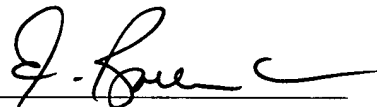
This is a decision on the petition filed on March 22, 2004 by which petitioners request withdrawal of the examiner's holding that this application stands abandoned for failure to file a proper and timely reply to the final Office action dated August 21, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioners allege that this application is not abandoned because a proper reply to the Office letter in question was in fact filed on November 5, 2003. Petitioners support this allegation by furnishing a copy of the reply consisting of a Request for Continued Examination (RCE) under 37 CFR 1.114 and a preliminary amendment accompanying the RCE. Petitioners have also submitted a copy of filing receipt for the reply which shows that the reply was in fact received in the Office on November 21, 2003, a date within the period set by the Office letter in question for filing a reply. A RCE constitutes a proper reply to the outstanding final Office action. Based upon this evidence, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application will be forwarded to the examiner for action on the RCE filed November 21, 2003.

PETITION GRANTED.

  
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